

# Chapter 7

## Restrictions

This chapter provides an overview of important restrictions regarding campaign contributions, gifts, honoraria, lobbying conduct, disqualification of public officials, and post-governmental employment restrictions for former state officials. Only these provisions are discussed. Refer to the referenced statutes and regulations for specific information.

### Campaign Contributions

#### Restrictions on Lobbyists and Campaign Contributions

Lobbyists may not mail, deliver, or otherwise transmit a campaign contribution, including a nonmonetary contribution, from their own personal assets to the following: 1) an elected state official, 2) a candidate for elective state office, 3) a state or local committee controlled by the state official or candidate, or 4) a committee primarily formed to support or oppose such a candidate if the candidate is seeking an office with, or the official is an elected officeholder of, an agency the lobbyist is registered to lobby. This prohibition applies to any legal defense fund committees controlled by such a state official or candidate.

A business entity, including a lobbying firm, may not contribute to such a state elected official or candidate if it is owned, in whole or in part, by a lobbyist and the lobbyist participates in the decision to make the contribution. Otherwise, lobbying firms are not prohibited from making campaign contributions.

A campaign committee is prohibited from making a contribution to such a state elected official or candidate if the contribution is comprised of the personal assets of a lobbyist, in whole or in part, and the lobbyist participates in the decision to make the contribution.

A lobbyist is not prohibited from advising his or her clients or employer regarding the making of a contribution.

**Examples** *Bert Rogers is registered to lobby the Legislature and the Attorney General's office. He is prohibited from making a contribution to any State Assembly member or Senator, any legislative candidate, the Attorney General, any candidate for Attorney General, any of their controlled committees, or any committee primarily formed to support or oppose such candidates. This prohibition would apply to any ballot measure, local candidate, or legal defense fund committees the state candidates or officials may control. However, Bert may contribute to any other state official, such as the Secretary of State or Controller, or candidates for these offices. Bert must report contributions he makes on his Form 615.*

*Melissa Tamonang is a lobbyist registered to lobby the Legislature. While Melissa is prohibited from making a contribution to any State Assembly member or Senator, any legislative candidate, any of their controlled committees, or any committee primarily formed to support or oppose such candidates, Melissa's spouse may make a contribution. If the spouse uses their joint checking account, he must sign the check.*

*Dana Bethel is a lobbyist for the California Furniture Manufacturers' Coalition and is registered to lobby the State Legislature, the Governor, and all state agencies.*

- Dana contributes to and sits on the board of a general purpose recipient committee for a state environmental group. Dana may not participate when the board decides which state candidates to support with a contribution.*

- *Dana makes a personal contribution to another general purpose recipient committee formed to support candidates that endorses the committee's views on taxation. Dana does not participate in deciding which state candidates receive contributions from this committee. Dana's contribution does not preclude the committee from making contributions to state officials.*

*Sandra Monahan is a lobbyist who lobbies only the PUC. She is asked by a candidate for State Controller to make a contribution to his campaign. Sandra may make the contribution since she is not registered to lobby the State Controller's office and must report the contribution on her next Form 615. Later that same month, Sandra is asked to attend a fundraiser for a PUC commissioner who is also seeking election to the State Assembly. Sandra declined because she is prohibited from making a contribution to this candidate.*

A lobbyist is permitted to make contributions to federal candidate committees controlled by a state officeholder or candidate. A lobbyist may also make a personal contribution to political parties and state general purpose recipient committees, as long as the lobbyist does not participate in deciding whether contributions will be made by the parties or committees to support or oppose state candidates. A lobbyist may also contribute to a committee formed to support or oppose the recall of a state officeholder, as long as the committee is not controlled by a state officeholder or candidate whose office the lobbyist is registered to lobby. These contributions are not reported on the Form 615.

### Contribution Limits

Candidates for state office are subject to contribution limits. Campaign committees, including political parties, which make

contributions to state candidates, are also subject to contribution limits. These limits are reviewed for adjustment every odd-numbered year. For easy reference, the FPPC's website, [www.fppc.ca.gov](http://www.fppc.ca.gov), posts the current limits in effect.

### Delivery of Campaign Contributions

No person may deliver or accept a campaign contribution in the State Capitol, a state office building, or any building for which the State of California pays the majority of the rent. This includes delivery of a copy of a contribution check or a contribution transmittal letter. Contributions sent to the State Capitol or other building by mail, and contributions delivered to a legislator's district office, are not prohibited.

### Gift Limit for Lobbyists and Lobbying Firms

No lobbyist or lobbying firm may:

- Make a gift(s) aggregating more than ten dollars (\$10) in a calendar month, act as an agent or intermediary in the making of such a gift, or arrange such a gift to any of the following officials:
    - A state candidate;
    - An elected state officer;
    - A legislative official;
    - An agency official employed by an agency that is or should be listed on the lobbying registration statement.
- A lobbyist or lobbying firm "arranges for the making of a gift" if the lobbyist or lobbying firm, either directly or through an agent, does any of the following:
- Delivers a gift to the recipient;
  - Acts as the representative of the donor, if the donor is not present at the occasion of a gift. This does not include accompanying the recipient to

an event where the donor will be present;

- Invites or sends an invitation to an intended recipient regarding the occasion of a gift;
- Solicits responses from an intended recipient concerning his or her attendance or non-attendance at the occasion of a gift; or
- Acts as an intermediary in connection with the reimbursement of a recipient's expenses.

Chapter 4 provides a detailed overview of the gift restrictions.

## General Prohibitions for Lobbyists and Lobbying Firms

No lobbyist or lobbying firm may:

- Do anything for the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, lobbying firm, or a lobbyist employer, including making secured or unsecured loans;
- Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action;
- Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat;
- Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in

the name of any real person, except with the consent of such real person;

- Represent falsely either directly or indirectly that the lobbyist or lobbying firm can control the official action of any elected state officer, legislative official, or agency official; or
- Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

## General Prohibitions for Officials

The following restrictions apply to public officials and are only briefly reviewed to acquaint lobbying filers of other restrictions in the Political Reform Act.

### Gift Limit

Legislative officials, most state and local officials and employees, and candidates for state and local office may not accept gifts from a single source aggregating more than \$360 in a calendar year. The gift limit is adjusted each odd-numbered year to reflect changes in the Consumer Price Index, and was last adjusted January 1, 2005. Certain payments are not subject to the gift limit. For further information, refer to Chapter 4.

### Honoraria Ban

Legislative officials, most state and local officials and employees, and candidates for state and local office may not accept honoraria payments. "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

However, honorarium does not include earned income for personal services that are customarily provided in connection with the practice of a bona fide business, trade, or

profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches. A fact sheet titled “Limitations and other Restrictions on Gifts, Honoraria, Travel and Loans for State Officials” is a good reference document available on FPPC’s website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

### Disqualification

A state official may need to disqualify himself or herself from voting or otherwise participating in a governmental decision affecting a source of income (including a person that has provided a gift to the public official) if the payment was received or promised to the official within 12 months preceding the decision. Whether an official must disqualify himself or herself relies heavily on the facts of each governmental decision.

### Post-Governmental Employment Restrictions – Revolving Door Provisions

The Act restricts the lobbying activities of certain state agency officials once the official has left government employment. Many officials are subject to both a one-year and a lifetime lobbying ban.

- One-year ban: State agency officials are prohibited for 12 months after leaving an agency from receiving compensation to appear before or communicate with the agency to influence certain agency decisions; and
- Lifetime ban: A state agency official may never receive compensation for the purpose of appearing before, or assisting another person in appearing before, a former agency in certain proceedings on which the official worked while employed by the agency.

State agency officials are also prohibited from participating in certain governmental decisions when they are negotiating employment or have an employment arrangement with a prospective employer.

### Important Note:

Legislators are not subject to the lifetime ban, but are prohibited from lobbying the Legislature for one year. Employees of the Legislature are not subject to either the one-year or lifetime revolving door provisions.

### Questions and Answers

- Q. *May a lobbyist registered to lobby the Legislature make a contribution to a ballot measure committee controlled by an Assembly member or State Senator?*
- A. No. A lobbyist may not make a contribution to state or local committee controlled by a candidate or officeholder if the lobbyist is registered to lobby the candidate or officeholder’s agency.
- Q. *May a lobbyist employer deliver a campaign contribution in a legislator’s Capitol inner office?*
- A. No. Even though there is no prohibition on lobbyist employers making a contribution to a state legislator’s campaign, nowhere in the Capitol building may a contribution be delivered personally, unless it is also the legislator’s district office.
- Q. *May a lobbyist make a contribution to a legislator’s committee for federal office even if the lobbyist would otherwise be prohibited from making a contribution to the legislator’s state committee?*
- A. Yes. There is no prohibition under the Act on lobbyists making contributions to a candidate’s committee for federal office.



Q. *The partners of a lobbying firm are not lobbyists. May these partners make a contribution to a state candidate from funds of the lobbying firm?*

A. Yes. A lobbying firm may make a contribution to a state candidate, as long as a lobbyist does not participate in the decision to make a contribution.

Q. *I am registered to lobby the Secretary of State's office. May I attend the fundraiser of a candidate running for that office if I use my employer's funds to pay for attendance?*

A. Yes. The prohibition against a lobbyist making a contribution to state candidates does not preclude a lobbyist from delivering a contribution made by his or her lobbyist employer.

Q. *May a lobbying firm reimburse or make payments to its lobbyist for the purpose of entertaining officials at the lobbyist's home?*

A. Yes, as long as the fair market value of the food and beverage provided to each official does not exceed \$10. However, a lobbyist may entertain officials in the lobbyist's home without regard to the \$10 gift limit as long as no one reimburses the lobbyist; the cost for entertaining the officials is not claimed as a tax deduction by the lobbyist; and no portion of the lobbyist's salary is allocated for home entertainment. (See Chapter 4.)

Q. *Will a \$300 gift of dinner and entertainment provided to an official by a lobbyist employer violate the \$10 gift limit?*

A. The \$10 gift limit does not apply to lobbyist employers as long as a lobbyist or lobbying firm is not involved in making or arranging the gift. However, most officials may not receive gifts that exceed \$360 in a calendar year from a single

source. (The gift limit is adjusted every odd-numbered year.)

Q. *When a lobbyist has lunch with a reportable person and the reportable person pays for his or her own lunch, must the lobbyist report the lunch as an activity expense?*

A. No. The reportable person has not received a gift because he or she paid for his or her own lunch.

Q. *What is the maximum amount a lobbyist employer/lobbying coalition or \$5,000 filer may spend on an official during the calendar year?*

A. The gift limit is \$360 per official in a calendar year. This amount is adjusted every odd-numbered year.

Q. *May a lobbyist receive "contingency" payments based on the outcome of legislative or administrative actions?*

A. No. Lobbyists are prohibited from accepting or agreeing to accept any payment that is in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

Q. *May a lobbying firm receive a contingency fee for obtaining a state contract for a client?*

A. Yes. The definition of "lobbying" does not include bidding for a state contract. Therefore, the prohibition on lobbying contingency fees does not apply.

## Statutory and Regulatory References

### Statutes

- 84309 *Transmittal of Campaign Contributions in State Office Buildings*
- 85301 *Limits on Contributions from Persons*

## Chapter 7 — Restrictions

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- 85303 *Limits on Contributions to Committees and Political Parties*
- 85702 *Contributions from Lobbyists*
- 86201 *Gift*
- 86203 *Unlawful Gifts*
- 86205 *Acts Prohibited*
- 87100 *Public Officials; State and Local*
- 87102.5 *Legislature; Use of Position to Influence Decisions*
- 87401 *Restrictions on Activities of Former State Officers*
- 87402 *Restrictions on Activities of Former State Officers; Assisting Others*
- 87406 *Milton Marks Postgovernmental Employment Restrictions Act*
- 89501 *Honoraria*
- 89502 *Honorarium*
- 89503 *Gift Limits*

### Regulations

- 18439 *Definition of "Personally Deliver"*
- 18545 *Contribution Limit and Voluntary Expenditure Ceiling Amounts*
- 18572 *Lobbyist Contributions -- Making a Contribution Defined*
- 18624 *Lobbyist Arranging Gifts*
- 18625 *Loans from Lobbyist or Lobbying Firm; Placing Official Under Personal Obligation*
- 18940.2 *Gift Limit Amount*